IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :12014 of 2006

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Dated: 16th June 2006.

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Between:

V.Mohan Reddy

..... PETITIONER

AND

State of Andhra Pradesh rep by its, Secretary, Transport Department, Secretariat, Hyderabad.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

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W.P.NO.12014 OF 2006

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the prayer as follows:

> " For the reasons stated in the accompanying affidavit it is therefore prayed that the Hon'ble Court may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or order or direction, declaring the action of the respondents not exempting the tractor and trailor AP36T-6970 and AP36T6871 from the provisions of the Andhra Pradesh Motor Vehicles Taxation Act 1963 and seizing the same for nonpayment of tax as arbitrary and illegal and contrary to Section 10 of Andhra Pradesh Motor Vehicles Tax Act 1963 and direct the respondents to release the tractor cum trailor AP36T6970 and AP 36T6871 and exempt the said tractor from payment of taxes and pass such other order or orders as may deem fit and proper in the circumstances of the case in the interest of justice."

The petitioner claims to be the owner of Tractor bearing No. AP 36T 6970 and the trailor attached to it bearing No. AP 36T 6871 and also that he is an agriculturist. The vehicle of the petitioner was seized on 29-03-2006 on the ground that the same was being used without paying tax and certain other irregularities. Thereupon, it appears that the respondents demanded an amount of Rs.23,080/- towards the tax payable on the vehicle, Rs. 45,400/- as penalty and Rs.5,525/- towards fine. Hence, the writ petition.

It is submitted in the affidavit filed in support of the writ petition that though the petitioner is an agriculturist and using the tractor and trailor for his agricultural

operations, at the time of registration of the vehicle, the same was registered as a commercial vehicle and attributes the same to his illiteracy and further submits that under Section 10 of the A.P.M.V.T.Act, 1963, tractors used by the agriculturists are exempted from paying tax, therefore, he is not liable to pay any tax.

Heard the learned Government Pleader for Transport.

The fact that the tractors used by the agriculturists are exempted from tax, is not in dispute, however, the question remains, whether the petitioner is using his vehicle for only agricultural operations or for some other commercial purposes or both, is a matter to be decided on an appropriate enquiry. The petitioner having purchased the vehicle in the year 1996 and got registered the same under the category of commercial vehicle, for whatever reason either for ignorance or otherwise, cannot straightaway claim that the said vehicle is exempted from paying tax, today. The learned Government Pleader for Transport submits that an enquiry regarding the liability of the petitioner to pay the tax is still pending with the respondents.

In the circumstances, we are of the opinion that the matter ban be disposed, directing the respondents to complete the enquiry expeditiously, preferably, within a period of four weeks from today, wherein it is open for the petitioner to lead evidence and establish that he is, in fact, an agriculturist and has been using the said vehicle for his agricultural operations, but not for any commercial purposes. Depending on the result of the enquiry, the

2nd respondent shall pass appropriate orders in accordance with law.

However, in view of the assertion of the petitioner that he is an agriculturist and that the season for agricultural operations has already commenced, we deem it appropriate to direct the respondents to release the said tractor and trailor, on condition of the petitioner depositing an amount of Rs.24,000/- with the

2nd respondent. Depending upon the result of the enquiry, as directed above, the said amount was either to be appropriated by the respondents towards tax, if the petitioner is found liable to pay, or refunded to him, if he is otherwise found.

In the result, the writ petition is disposed of with the above directions, at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

16th June 2006

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